

REMARKS:

The undersigned has reviewed the Office Action of February 26, 2009, and provides the following response:

Election/Restriction: The Examiner states that Claims 19-22 and 25 will be included with the non-elected species since they are directed to a frame 14 that is shown in Figures 4a and 4b to be part of a separate locking element and thus are directed to the species II. The undersigned respectfully disagrees and contends that the Examiner is improperly reading limitations from the specification into the claims. While the frame 14 shown in Figures 4a and 4b are shown to be part of a separate locking element, nothing in the claims dictate such a narrow construction. Indeed, as the Examiner originally contended at page 3 of the October 9, 2009, Office Action, Claims 19-22 and 25 are generic and cover both species of the invention. For these reasons, the undersigned respectfully requests that the Examiner reconsider the restriction.

Specification: The Examiner objects to the disclosure bridging pages 12 and 13 of the specification. Specifically, the Examiner states that there is an inconsistency in that the joint edges 8a and 8b are described as locking the tiles in both the horizontal and vertical direction and Figure 9 shows joint edges 8a and 8b to have joint structures 4, 5 that do not lock the tiles in both vertically and horizontally. The undersigned respectfully disagrees with the Examiner's objection. Indeed, at the paragraph bridging pages 7-8, the Applicant explains that simple tongue 4 and groove 5 mechanisms are shown in Figure 9 for ease of explanation only. It is explained that those tongue and groove mechanisms are capable of holding the tiles together in

the horizontal direction when they take the form of the locking types shown in Figs. 1, 3, 5, and 6. For these reasons, it is respectfully requested that the Examiner withdraw the objection to the specification.

Claim Rejections under 35 USC § 112: The Examiner rejects claims 23 and 24 as being indefinite. Specifically, the Examiner objects to the use of the term “type” as rendering the scope of the claims unascertainable.

Claim Rejections under 35 USC § 102 & 103: The Examiner rejects claims 1, 2, 5, and 7-9 under 35 U.S.C. 102(a) as being anticipated by EP1362947, claims 3, 4, 10, 11, 23, and 24 under 35 U.S.C. 103(a) as being obvious over EP1362947 in view of Tone 4,766,022, and claim 6 under 35 U.S.C. 103(a) as being obvious over EP1362947 in view of Tone 4,766,022, Stanesci 6,244,802 and Daniel 6,841,216. It is believed that these rejections are moot in view of the present amendment to claim 1, which now requires the support plate to have a cell structure formed of a plurality of perpendicularly arranged webs that form hollow cells, wherein the upper side of the cells is closed by a plate on which the carpet material is fixed and the cells are only open to the bottom. For this reason, it is respectfully requested that the Examiner withdraw the claim rejections.

The Applicants believe that a two month extension of time fee is required for submission of this Amendment. You are hereby authorized to deduct this fee and any other required amounts from our Deposit Account No. 02-0400 (Baker & McKenzie). When identifying such a withdrawal, please use the Attorney Docket Number BER-104.

Docket No. BER-104
Appl./Control Number 10/585,836
Amdt. dated July 27, 2009
Response to Office Action of Feb. 26, 2009

July 27, 2009

Respectfully,

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